

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DAVID AUGUST KILLE, SR.,)	
)	3:06-CV-00619-LRH-RAM
Plaintiff,)	
)	<u>MINUTE ORDER</u>
vs.)	
)	May 27, 2008
TIMOTHY O'BRIEN, et al.,)	
)	
Defendants.)	
_____)	

PRESENT: THE HONORABLE LARRY R. HICKS, UNITED STATES DISTRICT JUDGE

DEPUTY CLERK: ROSEMARIE MILLER REPORTER: NONE APPEARING

COUNSEL FOR PLAINTIFF(S): NONE APPEARING

COUNSEL FOR DEFENDANT(S): NONE APPEARING

MINUTE ORDER IN CHAMBERS:

IT IS ORDERED that Plaintiff's motion to recuse Judge Larry R. Hicks (#43) is DENIED.

Recusal is governed by 28 U.S.C. §§ 144 and 455. Under section 144, a party seeking recusal must set forth, in an affidavit, facts and reasons for the belief that bias or prejudice exists. *See* 28 U.S.C. § 144. The standard for recusal under sections 144 and 455 is "whether a reasonable person with knowledge of all the facts would conclude that the judge's impartiality might reasonably be questioned." *United States v. Studley*, 783 F.2d 934, 939 (9th Cir. 1986). The alleged prejudice must result from an extrajudicial source; a judge's prior adverse ruling is not sufficient cause for recusal. *Id.* The challenged judge should rule on the legal sufficiency of the recusal motion in the first instance. *Id.* at 940. The judge has a duty not to recuse when there is no sound reason to do so.

Plaintiff's motion to recuse is without merit. Plaintiff has shown no reason for this judge's impartiality in this case to be questioned.

IT IS SO ORDERED.

LANCE S. WILSON, CLERK

By: /s/
Deputy Clerk